1945

File No. B Musal manWalf 145

Legal Deptt

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Subject:—

A Bill to amend the

Bombay Musalman Wakf

Act 1923 in its application to the

Province of Bombay

Amendment of Secs. 6 C)

Bombay Act XV of 1945

7/1945 E

File No. B. Musalman Wakf 145

Gen. 194 e.

517-B

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Legal Department file No.B.Mussalman Wakf/45

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Office of the E.L.A.

A revised draft Bill is appended.

2. The Statement at page 29 ante as amended is in order.

3. The subject-matter of the Bill would fall under entries 8 and 34 in the Provincial Legislative List and entries 9 and 15 of the Concurrent Legislative List in the Seventh Sechedule to the Government of India Act, 1935. As clause 2 of the Bill is repugnant to the provisions of the Musslman Wakf Act, 1923 in its application to the Province of Bombay, which is an existing Indian law relating to public trust and trustees, it is necessary to reserve the Bill for the consideration of the Governor General under section 107(2) of the Government of India Act, 1935 vide paragraph(2) of the Proclamation dated the 4th November 1939). Under Executive Instructions the Bill requires previous concurrence of the Governor General.

Sd/P.N.M.
29-12/44

Remembrancer of Legal Affairs.

M.R.D.
12-7-56
C.4

U.R. to R.D. No.9145, dated the 30th December 1944.

No.3763 &

Legal Department,
Bombay Castle, 16th May 1945.

From
P.N.Moos, Esquire, Bar-at-Law, I.C.S.
Secretary to the Government of Bombay;

To
The Secretary to the Governor of Bombay.

Subject:- A Bill to amend the Musslman Wakf the Province of Bombay.

Sir,

With reference to your memorandum No.201(115)- dated the 1st February 1945, addressed to the Revenue Department, on the above subject, I am directed to send herewith a copy of the Bill to amend the Musslman Wakf Act, 1923, in the its application to the Province of Bombay, prepared by His Excellency the Governor under paragraph (2)of the Proclamation dated the 4th November 1939 issued by him under section 93 of the Government of India Act,1935, and to request you to forward the same to the Secretary to the Governor-General(Public) for obtaining the assent of His Excellency the Governor General.

2. The subject matter of the Bill falls under entries 2 and 34 in the Provincial Legislative List and entries 9 and 15 in the Concurrent Legislative List in the Seventh Schedule to the Government of India Act,1935. As clause 2 of the Bill is repugnant to the provisions of the Mussalman Wakf Act, 1923, in its application to to the Province of Bombay, which is an existing Indian law relating to public trust and trustees, it is necessary to reserve the Bill for the consideration of the Governor General under the section 107(2)of the Government of India Act, 1935,and paragraph(2)of the Proclamation.

3. I also forward herewith six spare copies of the Bill, out of which five copies are for transmission to the Secretary to the Governor General(public)

Your obedient servant,
Sd/-
16-5-45

P.T.O.

Sd/-

16-5-45
Secretary to the Government of Bombay,
Legal Department.

Through:

The Secretary to the Government of Bombay,

Revenue Department.

M.R.D.
12-7-56
6.4

No.201(115)
Office of the Governor's Secretary,
Government House,

From
D. Symington, Esquire, CIE.ICS.
Secretary to the Governor of Bombay,

To.
The Secretary to Government,
Legal Department,
Ganeshkhind, 15th June 1945.

Subject:- The Mussalman Wakf(Bombay Amendment) Bill,1945.

Sir,

With reference to your letter No.3763,dated 16th May 1945, on the above subject, I am directed to forward herewith the copy of the Mussalman Wakf (Bombay Amendment) Bill,1945,with His Excellency the Governor-Generl's assent signfied thereon.

Your obedient servant,

Sd/-

Secretary to the Governor of Bombay.

M.R.D.
12-7-56
C4

Acts.

Publication of the Mussalman Wakf (Bombay Amendment) Act, 1945.

GOVERNMENT OF BOMBAY.
Legal Department,
Resolution No.4632.

Bombay Castle, 20th June 1945.

Letter to the Secretary to the Governor, No.3763, dated the the May 1945.

Letter from the Secretary to Governor, No.201(115) dated the 15th June 1945.

"With reference to your Letter No.3763, dated 16th May 1945, on the above subject, I am directed to forward herewith the copy of the Mussalman Wakf (Bombay Amendment) Bill, 1945, with His Excellency the Governor-General's assent signfied thereon.

RESOLUTION:- The law should be published as Bombay Act No.XV of 1945, in the Bombay Government Gazette dated the 20th June 1945.

2. The Act should be translated into Marathi, Gujarati, Kannada and Hindustani (in Urdu and Devnagari scripts) and the translations should be published in the Bombay Government Gazette.

3. A copy of the Act should be forwarded to the Revenue Department.

By order of the Governor of Bombay,

Sd/-
P.H.MOOS,
For (Secretary to Government,

To
The Manager, Government Central Press, Bombay (with a copy of the Act and with a request that 15 Gazette copies of the Act may be forwarded to the Legal Department),
The Revenue Department,
*The Oriental Translator to Government,) with a
The Secretary to the Bombay Legislative Council,) copy of
The Secretary to the Bombay Legislative Assembly,) the Act.

*with five extra copies.

M.R.D.
12-7-56
C.4

Registered No. B-1

The Bombay Government Gazette

PUBLISHED BY AUTHORITY

WEDNESDAY, 20TH JUNE 1945.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART IV

(1) Acts of the Local Legislature of the Bombay Province and (2) Acts of the Indian Legislature assented to by the Governor General.

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BOMBAY ACT No. XV OF 1945—An Act to amend the Mussalman Wakf Act, 1923, in its application to the Province of Bombay	104-105

The following Act made by the Governor of Bombay in exercise of the powers vested in him by virtue of the Proclamation dated the 4th November 1939 issued by him under section 93 of the Government of India Act, 1935, having been assented to by the Governor-General on the 7th June 1945 is hereby published for general information

P. N. MOOS,
Secretary to the Government of Bombay,
Legal Department.

BOMBAY ACT No. XV OF 1945.

(First published, after having received the assent of the Governor-General, in the "Bombay Government Gazette" on the 20th June 1945.)

An Act to amend the Mussalman Wakf Act, 1923, in its application to the Province of Bombay.

XLII of 1923.

WHEREAS it is expedient to amend the Mussalman Wakf Act, 1923, in its application to the Province of Bombay for the purposes hereinafter appearing;

26 Geo. 5, Ch. 2.

AND WHEREAS the Governor of Bombay has assumed to himself under the Proclamation dated the 4th November 1939, issued by him under section 93 of the Government of India Act, 1935, all powers vested by or under the said Act in the Provincial Legislature;

NOW, THEREFORE, in exercise of the said powers, he Governor of Bombay is pleased to make the following Act:—

Short title. 1. This Act may be called the Mussalman Wakf (Bombay Amendment) Act, 1945. XLII of 1923.

Amendment of section 6C of Act XLII of 1923. 2. In sub-section (*1*) of section 6C of the Mussalman Wakf Act, 1923, in its application to the Province of Bombay, for clause (i), the following shall be substituted, namely:—

" (i) whether a wakf exists;

(ia) whether such wakf is a waki to which this Act applies;

STATEMENT.

It has been held that, as the Mussalman Wakf Act in its application to tl Province of Bombay stands at present, an enquiry under section 6C (*1*) of tl Act is confined to cases where the existence of a wakf is admitted by tl mutawalli, manager or trustee concerned. Government apprehends that suc restricted application of section 6C (*1*) of the Act would defeat the ver object underlying the amendments of the Act made by Bombay Act XVI of 1935, and would enable unscrupulous mutawallis of wakfs to escape th enquiry under section 6C (*1*) by denying the existence of the wakf at th enquiry. It is necessary that a Court should have jurisdiction to decide whe the existence of a wakf itself is denied whether the wakf exists and wheth it is a wakf to which the Act applies. The present Act is intended achieve this object.

BOMBAY: PRINTED AT THE GOVERNMENT CENTRAL PRESS.